

OGC HAS REVIEWED.

19 September 1955

Dear Gerry:

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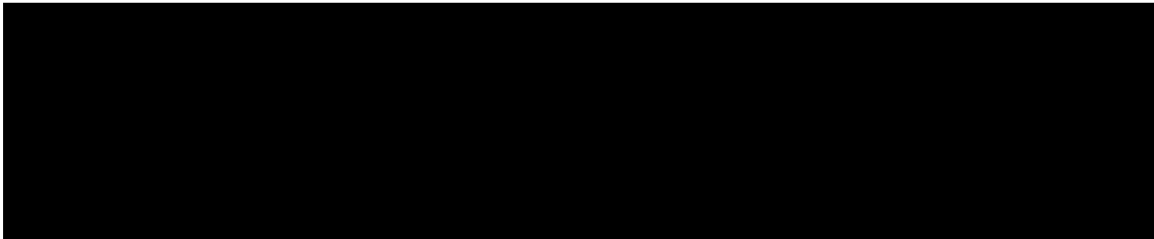
You gave [REDACTED] a note on his way through about a possible business relationship which you might be in a position to take on the side. We have talked it over in some detail here, and I think it is clear that there are no strictly legal obstacles. However, as you are aware there are policy considerations in this field which should be considered.

The Department of Commerce has recently put out a departmental order reviewing the entire subject of conflicts of interest and private business activities of officers and employees. We think it is a good statement both of law and policy, and some of the statements might be helpful to you in judging the ethics of your position. After restating the basic policy that a public office is a public trust which prohibits business activities by a public officer which are incompatible with the duties of his office, the order states that it is the policy of the Department of Commerce to place as few limitations as possible on private business activities or interests consistent with the public trust and the effective performance of official duties. Further there is no general statutory or regulatory limitation on the conduct of private business activities for compensation when the private activity is not connected with any business of the Government. However, certain regulatory limitations are spelled out for guidance.

Granting the business undertaking you contemplate would not interfere with your duties or bring discredit, criticism, or embarrassment on your employing agency, the following regulatory limitation is pertinent. It says in essence that no officer may engage directly or indirectly in any private business transaction which involves or permits the capitalization of his official title or which may reasonably be construed by the public as accruing from, being based upon, or utilizing his official position or resources or information not available to the general public, to which he has access by reason of his position or authority. Key words here appear to me to be those which refer to situations which may reasonably be construed by the public as accruing from utilization of his official position or information not available to the general public. This is a recognition of the old Government truism that what is important is not necessarily the facts in a situation, it may be how the facts would be construed by the general public.

Based on this policy limitation, which we believe to be soundly stated, we would ask you to judge your proposal with a conservative eye. Based on what I know, I would myself tend to turn it down, but you are in possession of all the facts and should, I feel, make your own decision. If acceptance would assist your long-range operational plans, I would qualify my negative attitude, but if the operational plans are apart from your direct business association with the outfit, I would tend to stay clear.

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/S/
L.R.H.

OGC:LRH:jeb 25X1A9a
cc: OGC - [REDACTED] w/basic
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